HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 1259 (S/S) 2005

Bimla Pundir W/o Sri Trilok Singh,
Assistant Teacher (Bhasha),
Prathmik Vidhyalaya,
Girls Junior High School, Sursinghdhar,
Block Chamba,
District Tehri Garhwal. ----Petitioner.

Vs.

1. District Education Officer,
   District Tehri Garhwal, Narendranagar,
2. Regional Joint Director of Education,
   Garhwal Division, Pauri
3. Director Vidhyalayi Shiksha,
   Mayur Vihar, Dehradun. ----Respondents.

Sri Sharad Sharma, learned counsel for the petitioner.
Learned Standing Counsel for the respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Shrad Sharma, learned counsel for the petitioner and learned Standing Counsel for the State who accepts notices for the respondents.

Counsel for the parties are agreed that the writ petition may be decided at the admission stage, itself.

By means of this writ petition, the petitioner who is a Teacher at Girls Junior High School, Sursingh Dhar, Chamba, Tehri Garhwal, has challenged the transfer order dated 28.06.2005 passed by the District Education Officer, Tehri Garhwal, Narendra Nagar by which the petitioner has been transferred to Girls Junior High School, Obri, Chamba, Tehri Garhwal.

The petitioner has challenged the transfer order on various grounds, one of which is that the transfer order has

been passed treating her to be a surplus teacher. Learned counsel for the petitioner has drawn my attention towards annexure no. 14 and contended that the respondents besides making transfers arbitrarily; have adopted 'pick and choose' method in making the transfers. Perusal of annexure no. 14 reveals that in the school where the petitioner is posted, there are 56 students enrolled and the sanctioned strength of teacher is 4, while 5 teachers were working in the Institution. Further at serial no. 30 i.e. at Dubakote, the number of students in the school has been shown as 4 and the sanctioned strength of teachers have been indicated as 3, out of this strength; 2 teachers are working and one post is vacant. Likewise, in regard to serial no. 17, the school, which situates at Kuttha, there are 38 students in the Institution and the sanctioned strength of teachers is 5, according to the chart. It is surprising that as to why the respondents have sanctioned 3 posts of teachers in a school where the strength of students is only 4 and in a school where the strength of students is 38, the strength of teacher have been sanctioned as 5 on the contrary where the strength of students is 56, in that case 3 teachers have been posted in the Institution.

In para-13 of the writ petition, the petitioner has submitted that through the petitioner has been transferred on the ground of surplus teacher but in place of the petitioner some other lady, namely, Smt. Sarla Bisht has been transferred. If, there were more teachers than the prescribed standard at Sursingh Dhar; then why other teacher has been transferred in place of the petitioner? It is wrong to say that there was no teacher of Science in the Institution, because Mrs. Munni Bhatt, was already working in the Institution as a Science Teacher. Counsel for the petitioner has submitted that the impugned transfer order has been passed t o accommodate Smt. Sarla

Bisht in the Institution where the petitioner is posted, as such, the transfer order is mala-fide.

In view of the aforesaid statement made in the writ petition and further on perusal of the annexure, annexed with the writ petition, I think it proper and justified to direct the District Education Officer, Tehri Garhwal, Narendra Nagar to decide the representation of the petitioner, which she has already submitted to the respondent no. 1 on 9th July 2005, within six weeks from the date of receipt of a certified copy of this order.

Accordingly, the District Education Officer, Tehri Garhwal, Narendra Nagar is directed to decide the representation of the petitioner within six weeks from the date of receipt of a certified copy of this order.

The petitioner is directed to submit a copy of this order before respondent no. 1 within 2 weeks form today. The District Education Officer, Tehri Garhwal, Narandra Nagar shall pass speaking order on the representation of the petitioner. Till the decision is taken on the representation of the petitioner, she shall not be relieved from her present place of posting.

With this direction, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

September 1, 2005:
NCM: